



STATE BOARD OF EQUALIZATION

November 12, 1965

Gentlemen:

This is to inform you of our recommendation with respect to your petition for redetermination of sales tax. The question in this matter is the application of the sales tax to sales of syndicate shares in race horses and stud stallions.

After reviewing the syndicate agreements which you had previously submitted to this office, we agree with the position taken by Mr. "W" in his letter to you of January 7, 1965. We believe it is clear the purchaser of a syndicate share acquires an undivided interest in the horse. Therefore, the sale of the share is a retail sale subject to tax. If at the time of the sale the horse is located in California the sale is subject to sales tax. If at the time of the sale of the share the horse is outside the state the sales tax does not apply but later events may make the use tax apply. These events would be (1) that the horse is brought into the state and used here and (2) at the time of the sale it was intended the horse would be brought into the state. If these events are known by you at the time of the sale of the share, you should collect use tax from the purchaser in the same way as you collect sales tax reimbursement from purchasers when the sale occurs in California.

Since it is clear that tax applies to syndicate shares, we must recommend that the tax be redetermined by including the syndicate sales which you have made during the audit period. However, because of the confusion as to the application of the tax to undivided interests in horses and to sales of syndicate shares, we are recommending that the negligence penalty was improperly imposed and should be deleted. We wish to thank you for your cooperation with our office and with our auditors.

The Board will act upon our recommendation at its next meeting and you will receive official notice of their action in due course. This notice will also include a statement of the redetermined amount of tax less credit for payments which you have already made.

Very truly yours,

John H. Knowles
Associate Tax Counsel